

ELECTION RULES OF THE COLORADO SECRETARY OF STATE

Rule 37. The Acquisition, Purchase or Lease of Voting Systems.

37.1 Declaration of Intent.

37.1.1 The federal Help America Vote Act of 2002 ("HAVA") established uniform voting systems standards used in elections. The following rules seek to conform Colorado requirements to federal HAVA requirements pertaining to voting systems.

37.1.2 Voting systems (including optical scanning voting systems or direct recording electronic systems) certified by the secretary of state and acquired, purchased or leased by counties pursuant to state law shall:

- (a) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;
- (b) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and
- (c) if the voter selects votes for more than one candidate for a single office:
 - (i) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot;
 - (ii) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
 - (iii) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.
- (d) Ensure that any notification required under this paragraph preserves the privacy of the vote and the confidentiality of the ballot.

37.1.3 Counties of the State of Colorado that use a paper ballot voting system or a central count voting system (including mail-in ballots and mail ballots), may meet the requirements of this rule by:

- (a) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and
- (b) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any errors).

37.1.4 The voting systems described in the foregoing paragraphs shall produce a record with an audit capacity for such system.

- (a) The voting system shall produce a permanent paper record with a manual audit

capacity for such system.

- (b) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.
- (c) The paper record produced under subparagraph (a) shall be available as an official record for any recount conducted with respect to any election in which the system is used.
- (d) The paper record shall be accessible for individuals with disabilities including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

37.1.5 The voting system shall:

- (a) be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;
- (b) satisfy the requirements of paragraph 37.1.5(a) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and
- (c) be installed in each polling place in the state, ~~by the first federal election held after January 1, 2006.~~

37.1.6 The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965.

37.2 Prohibition of lease, purchase, or acquisition of voting systems pending action by the Election Assistance Commission (EAC) and certification through the Secretary of State..

37.2.1 No voting system may be leased, purchased, or acquired by any county or political subdivision of this state until the EAC and the Secretary of State have promulgated voting systems standards that address these concerns. This rule shall not apply to voting systems that have been certified by the Secretary of State and purchased by the political subdivisions pursuant to state law prior to the effective date of this rule.

37.3 Adoption of April 30, 2002 Voting Systems Standards promulgated by the Federal Election Commission for voting systems.

37.3.1 The Secretary of State hereby adopts the April 30, 2002 Voting Systems Standards promulgated by the Federal Election Commission for voting systems. Therefore, all voting systems, including, but not limited to, optical scan voting systems, direct record electronic voting systems, and touch screens, purchased by the political subdivisions of the State of Colorado are required to meet the qualifications of the Voting Systems Standards promulgated by the Federal Election Commission on April 30, 2002 ~~and be certified by an independent testing authority certified by the National Association of Election Directors until such time, and subsequently thereto, at each time, as the Election Assistance Commission promulgates new Voting Systems Standards.~~

37.3.2 ~~Upon any revision or new release of Voting Systems Standards by the Election Assistance Commission, the Secretary of State hereby automatically adopts such standards as may be promulgated, and any vendor seeking state certification shall~~

~~follow such adopted voting systems standards and the processes mandated by state law in order to be certified by the Secretary of State.~~

- 37.3.3 Any voting system or equipment submitted to the Secretary of State for certification shall ~~have been tested for compliance with the Voting Systems Standard – 2002 (VSS 2002) or later. For certification in Colorado, the standards of the VSS 2002 shall take precedent except as superseded within these rules.~~ meet the federal voting system standards adopted in this rule in effect at the time the voting system or equipment is submitted to the Secretary of State. ~~The adoption of any new or amended voting system standards by the Election Assistance Commission after a voting system or equipment is submitted to the Secretary of State for certification shall not preclude certification or sale of the voting system or equipment under the standards in effect at the time the system or equipment was submitted for certification.~~
- 37.3.4 ~~On and after December 13, 2007 (the effective date of the 2005 Voluntary Voting System Guidelines of the Election Assistance Commission),~~ the governing body or designated election official of a political subdivision may purchase any voting system that was previously certified by the Secretary of State, under the 2002 Voting Systems Guidelines.
- 37.4 The Secretary of State requires all voting systems and all individual parts of voting systems to pass certification criteria as outlined in the State of Colorado Voting Systems Certification Program. The designated election official shall retain records of all certification procedures pertaining to voting systems and parts of voting systems.